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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/304,379	05/04/1999	MICHAEL JOSEPH GARDNER	1152	9580
28004	7590	11/14/2005	EXAMINER	
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			ART UNIT	PAPER NUMBER
			2668	

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/304,379

Applicant(s)

GARDNER ET AL.

Examiner

PHUC H. TRAN

Art Unit

2668

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 81-100 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 81-89 and 91-99 is/are rejected.
- 7) ☒ Claim(s) 90 and 100 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 81-89 and 91-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmanek, Jr. et al. (U.S. Patent No. 6324279 B1) and McGregor et al. (U.S. Patent No. 6650887 B2) in further view of Classon et al. (U.S. Patent No. 6700867 B2).

- With respect to claims 81, and 91, Kalmanek, Jr. teaches a communication system (e.g. Fig. 1) comprising: a signaling processor configured (e.g. Fig. 1 shows controllers 110, databases 140) to receive and process signaling for a call (e.g. the Gate controller receives a setup message for a call, step 210 in Fig. 2) to select a connection, a bandwidth rate, an encoding scheme, and a billing rate (it is inherently to know when the control setting up a communication with quality of service, it has to select the connection, the bandwidth rate and the encoding scheme with minimizing the cost; col. 3, lines 60-64, col. 4, lines 9-11, col. 10, lines 6-7), to transfer a first message indicating the connection, the bandwidth rate, and the encoding scheme (e.g. col. 6, lines 41-55 and col. 9, lines 6-21; the gate controller receives the request from TIU and authorize the service, therefore the controller controls the connection, the bandwidth rate and the encoding scheme before it can communicate with other TIU), and transfer a second message indicating the billing rate to an accounting system (e.g. the billing rate is detected at NED and at the gate

control, col. 5, lines 22-26, it is inherently to understand there is an accounting system for calculating bill for caller);

and an interworking unit configured to receive the first message and user communications for the call, and in response, to apply the encoding scheme to the user communications and transfer the user communications over the connection at the bandwidth rate (e.g. step 260 in Fig. 2).

Kalmanek explicitly fails to teach the billing rate transferring to the accounting system. But Kalmanek teaches the billing rate transferring from the gate controller through the network edge device to the accounting system (col. 33, line 55 to col. 34, line 9 and col. 5, lines 9-28). Therefore, it is inherently to a person of ordinary skill in the art at the time of the invention was made to understand the billing rate that transfers from the gate controller through the NED is the same as transmitting directly to the accounting system for determining the cost of communication between the caller and the called.

Kalmanek also fails to teach selecting a billing rate and encoding scheme.

Classon teaches a selecting encoding scheme base on input data (it is inherently as receiving a call) (col. 16, lines 29-44). The selecting encoding scheme can be implemented into Kalmanek at the Gate controller for controlling the communication between telephones. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement the method of selecting encoding scheme for protecting and controlling in the communication.

McGregor also teaches selecting a billing rate base on a telephone call (Abstract, col. 19, lines 47-55). The billing rate of McGregor can be implemented by input at the Gate controller to

monitor a call between the telephones to bill users. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the billing rate selection of McGregor into Kalmanek's invention to selecting a good rate for customer in the telecommunication service.

- With respect to claims 82 & 92, Kalmanek, Jr. also discloses wherein the signaling comprises a signaling system seven message (col. 7, line 61).

- With respect to claims 83-84 & 93-94, Kalmanek, Jr. further teaches wherein the signaling processor is configured to select the bandwidth rate based on whether the call is a voice call or a data call or a caller number (col. 9, lines 11-21).

- With respect to claims 85 & 95, Kalmanek, Jr. discloses wherein the signaling processor is configured to select the encoding scheme based on a caller number (e.g. col. 23, lines 28-32).

- With respect to claims 86-87 & 96-97, Kalmanek, Jr. teaches wherein the encoding scheme comprises compression and encryption (e.g. TIUs 170 and 171 coding the information is compressing and encryption).

- With respect to claims 88 & 98, Kalmanek, Jr. also teaches wherein the signaling processor is configured to select the billing rate based on the bandwidth rate or the encoding scheme (col. 3, lines 61-64).

Allowable Subject Matter

3. Claims 90 and 100 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed 9/6/05 have been fully considered but they are not persuasive.

- In response to Applicant's argument that "the cited text relates to the maximum bandwidth allowable not the actual bandwidth used...Thus, Kalmanek does not teach the claimed message between the signaling processor and the interworking unit to set the actual bandwidth used." in page 3. Examiner respectfully disagrees. In the claim 1, it does not teach "set the actual bandwidth used" it only teaches "select a bandwidth rate" therefore the selecting bandwidth is not limited to the actual bandwidth used.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H TRAN whose telephone number is (703) 308-7471. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (703) 308-5463. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9314.

Phuc Tran
Assistant Examiner
Art Unit 2664

P.t
November 14, 2005



DANG TON
PRIMARY EXAMINER